

P R I S M

Law Department

March 20, 2000

Magalie Roman Salas
Secretary
445 Twelfth Street, S.W.
TW-A325
Washington, DC 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Re: CC Docket No. 98-146

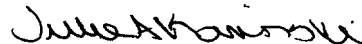
Dear Ms. Salas:

Prism Communication Services, Inc., hereby submits an original and four (4) copies of its Comments I response to the Commission's Notice of Inquiry in the above-referenced docket.

Also enclosed is a Return Copy of this filing. Please date-stamp this copy and return it in the envelope included for that purpose.

Any questions regarding this filing should be directed to the undersigned counsel.

Very truly yours,



Julie A. Kaminski
Deputy Chief Counsel-Telecommunications

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**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554**

DOCKET FILE COPY ORIGINAL

In the Matter of)
)
Inquiry Concerning Deployment of)
Advanced Telecommunications)
Capability to All Americans in a Reasonable)
And Timely Fashion, and Possible Steps)
To Accelerate Such Deployment Pursuant)
To Section 706 of the Telecommunications)
Act of 1996)

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

COMMENTS OF PRISM COMMUNICATION SERVICES, INC.

Respectfully submitted,

PRISM COMMUNICATION SERVICES, INC.
Randall B. Lowe, Chief Legal Officer
Julie A. Kaminski, Deputy Chief Counsel
– Telecommunications

March 20, 2000

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554**

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To Section 706 of the Telecommunications)	
Act of 1996)	

COMMENTS OF PRISM COMMUNICATION SERVICES, INC.

Prism Communication Services, Inc. ("Prism") hereby submits its Comments on the Notice of Inquiry in the above-referenced docket regarding the Commission's inquiry pursuant to Section 706 of the Telecommunications Act of 1996 as to whether advanced telecommunications capability is being deployed to all Americans in a reasonable and timely fashion.¹ Prism believes that the deployment of advanced telecommunications capability is proceeding apace as carriers are actively deploying advanced services, through a myriad of technologies, to meet the demand for broadband services. In order to ensure the continued deployment of advanced technologies, however, the Commission must be vigilant in guaranteeing that competitive carriers have access to the unbundled network elements ("UNEs") and interconnection arrangements necessary for carriers to compete against the incumbent LECs and bring the full benefits of a competitive marketplace to the American people.

¹ In the Matter of Inquiry Concerning the Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion, and Possible Steps to Accelerate Such Deployment Pursuant to Section 706 of the Telecommunications Act of 1996, CC Docket No. 98-146, *Notice of Inquiry*, FCC 00-57 (rel. February 18, 2000).

A. Advanced telecommunications capability is being deployed to all Americans in a reasonable and timely fashion.

Prism is one example of an advanced services provider deploying an innovative advanced technology on a national basis in order to bring the promises of the Telecommunications Act of 1996 (the “Act”) to the American people. Prism uses Nortel Network’s innovative Consumer Digital Modem (“CDM”) technology to offer both voice (local and long distance) and high-speed data services over a single copper loop.² Although CDM technology is similar in performance specifications to ADSL technology (1.5 Mbps downstream and 320 Kbps upstream), it is more efficient than traditional ADSL technology in that it uses an integrated line card in lieu of the various facilities typically associated with ADSL technology. For example, CDM technology does not require the deployment of a POTS splitter or a DSLAM. In addition, CDM technology can be deployed over POTS lines and does not require so-called “DSL-qualified loops.” Prism needs only copper loops, and the ability to collocate, in order to provide its one-stop offering of voice and data services to residential and business customers.

Prism is in the process of expanding into 33 U.S. markets, covering 27 states and the District of Columbia. Under its flagship “RED” brand name, Prism’s services are currently available in the New York City metropolitan area, as well as Connecticut, New Jersey and Philadelphia. By year’s end, Prism intends to have deployed the facilities necessary to have access to 57 million customers within the United States, including establishing approximately 800 points of presence within the United States. (Attached as Exhibit A is a map that reflects Prism’s national rollout plan.)

Prism is by no means alone. The ever-increasing demand for broadband services is dictating the expanded deployment of advanced telecommunications technologies. Competitive

² Prism also intends to offer video conferencing, virtual private networks, business continuity and teleworking solutions.

LECs such as Prism are squaring off with incumbent LECs to capture customers seeking broadband capability. Also competing in this marketplace are cable modem operators, wireless carriers, satellite-based providers and Internet service providers. Residential and business customers seek broadband capability on reasonable terms and the marketplace is answering their call. Moreover, so long as the regulatory regime remains amenable and competitive carriers are able to obtain reasonable and timely access to the facilities necessary to offer its services, Prism foresees the continuation of investment sources necessary to support the deployment of broadband services.

In sum, it is Prism's experience that advanced telecommunications capability is proceeding apace as carriers of different technologies seek to fulfill consumers' broadband demands.

- B. Competitive carriers must be able to compete on a level playing field with the incumbent LECs to ensure that consumers enjoy the benefit of true broadband competition.

Although Prism believes that advanced services are being deployed in order to meet consumer demand, this is not to say that there are no obstacles to such deployment, predominantly at the hands of the incumbent LECs. Prism, like other competitive carriers, is deploying its switches and the supporting facilities and infrastructure necessary to serve its customers. Prism's deployment and capital outlay is useless, however, if Prism is unable to gain access to the copper loops and collocation arrangements it needs from the incumbent LECs in order to offer its services. In Prism's opinion, the best ways for the Commission to promote the expansion of the deployment of advanced services is to ensure that the incumbent LECs meet their obligations under Section 251 of the Act and to prevent the incumbents from taking actions that limit the ability of competing carriers to offer advanced services.

At this time, Prism is only operating in the Bell Atlantic territory and has most of its operational experience in New York. Prism has experienced a myriad of problems trying to get Bell Atlantic to provision Prism's loops in a timely and accurate manner. At first, Bell Atlantic

was not dispatching its technicians to provision Prism's orders, claiming work force problems. Moreover, Prism has experienced problems in a significant number of the loops that Bell Atlantic has deemed "complete" for provisioning. These problems require Prism to reschedule appointments with its customers and re-dispatch its technicians, all at a cost to Prism. Although Prism has been working with Bell Atlantic to remedy these and other problems, Prism now has a large backlog of unserved customers.

In the meantime, of course, the Commission approved Bell Atlantic's 271 Application for the State of New York. As reflected in the recent Consent Decree entered into between the Commission and Bell Atlantic pertaining to Bell Atlantic's operational support systems,³ Bell Atlantic has not met its obligations under Section 251 and the New York market is not fully open to competition. Indeed, the Consent Decree did not even address the types of provisioning problems that Prism has experienced, and continues to experience, in the State of New York.⁴ Notwithstanding this, Bell Atlantic has received authority to provide long distance service in the State of New York, thereby removing the greatest incentive Bell Atlantic has to meet its obligations under Section 251 of the Act.

Although the foregoing relates specifically to Bell Atlantic, Prism anticipates that it will have similar problems with other incumbent LECs as it rolls out its services in other territories. In order to allow competitive carriers to deploy advanced services, the Commission must enforce the incumbents' obligations under Section 251 of the Act and only approve an incumbent's request for 271 relief when the incumbent has truly opened its market to competition.

³ In the Matter of Bell Atlantic—New York Authorization Under Section 271 of the Communications Act to Provide In-Region, InterLATA Service in the State of New York, File No. EB-00-IH-0085, Acct. No. X32080004, *Order*, FCC 00-92 (rel. March 9, 2000) ("Consent Decree").

⁴ The Consent Decree relates specifically to Bell Atlantic's problems associated with lost or mishandled orders for UNEs electronically submitted by competitors through a certain type of Bell Atlantic's electronic data interface ("EDI") protocol. Consent Decree at ¶ 1. Prism does not use Bell Atlantic's EDI system to submit orders. Moreover, the Consent Decree does address or institute penalties for the types of provisioning problems that Prism experiences with Bell Atlantic, such as the length of time it takes Bell Atlantic to install Prism's circuits.

Moreover, the Commission should remain vigilant in ensuring that the underlying infrastructure necessary to provide advanced services remains available. For example, Prism, along with other ADSL service providers, need a copper loop to provide their services. SBC, however, recently requested the Commission's blessing for its Project Pronto proposal, SBC's plan to place 20,000 remote terminals equipped with one type of digital loop carrier, Litespan 2000 DLC, and one type of ADSL plug and card that SBC will install and manage.⁵ As the comments in that proceeding make clear, SBC's proposal has the effect of limiting the types of advanced services that carriers will be able to provide.⁶ The Commission must guard against the attempts of incumbents to "upgrade" their network with fiber facilities without making reasonable accommodations for copper-based, advanced technologies.

In sum, the best means for the Commission to encourage the deployment of broadband capability is to closely monitor the incumbent carriers and ensure that they meet their obligations vis-à-vis their competitors. Without these safeguards, the Commission will be fostering an environment in which only the incumbent carriers will be able to deploy advanced services. If history serves as any indicator, under these circumstances, consumers will never reap the full benefits of broadband technologies.

⁵ In the Matter of the Applications of Ameritech Corp., Transferor, and SBC Communications, Inc., Transferee, For Consent to Transfer Control of Corporations Holding Commission Licenses and Lines, CC Docket 98-141, *Public Notice*, DA 00-335 (rel. Feb. 18, 2000) ("Public Notice"). The Public Notice was issued as a result of SBC's Request for Interpretation, Waiver or Modification of the SBC/Ameritech Merger Conditions, as set forth in SBC's February 15, 2000 letter to the Commission. See Letter dated February 15, 2000, from Paul K. Mancini, Vice President & Assistant General Counsel, SBC Communications, Inc., to Lawrence E. Strickling, Chief, Common Carrier Bureau, FCC. Although SBC only requested the Commission's interpretation on the ownership of facilities issue, the Public Notice requested comments on any part of SBC's proposal. It is noteworthy that SBC announced its Project Pronto initiative less than 2 weeks after the Commission approved the SBC/Ameritech merger based on the merger conditions that SBC now seeks a waiver in order to pursue Project Pronto, thereby calling into question SBC's forthrightness in negotiating the merger conditions with the Commission.

⁶ See, e.g., Comments of the DSL Access Telecommunications Alliance at 13; Comments of AT&T at 14; Comments of MGC Communications, d/b/a Mpower Communications Corp. at 2.

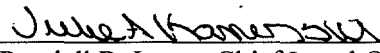
C. Conclusion

Prism believes that the deployment of advanced telecommunications capability is proceeding apace but, in order to ensure the continued development of broadband markets, the Commission remain vigilant in enforcing the incumbent's obligations under the 96 Act. Only then will competitors truly be able to compete and consumers benefit fully from the promises of the 96 Act.

Respectfully submitted,

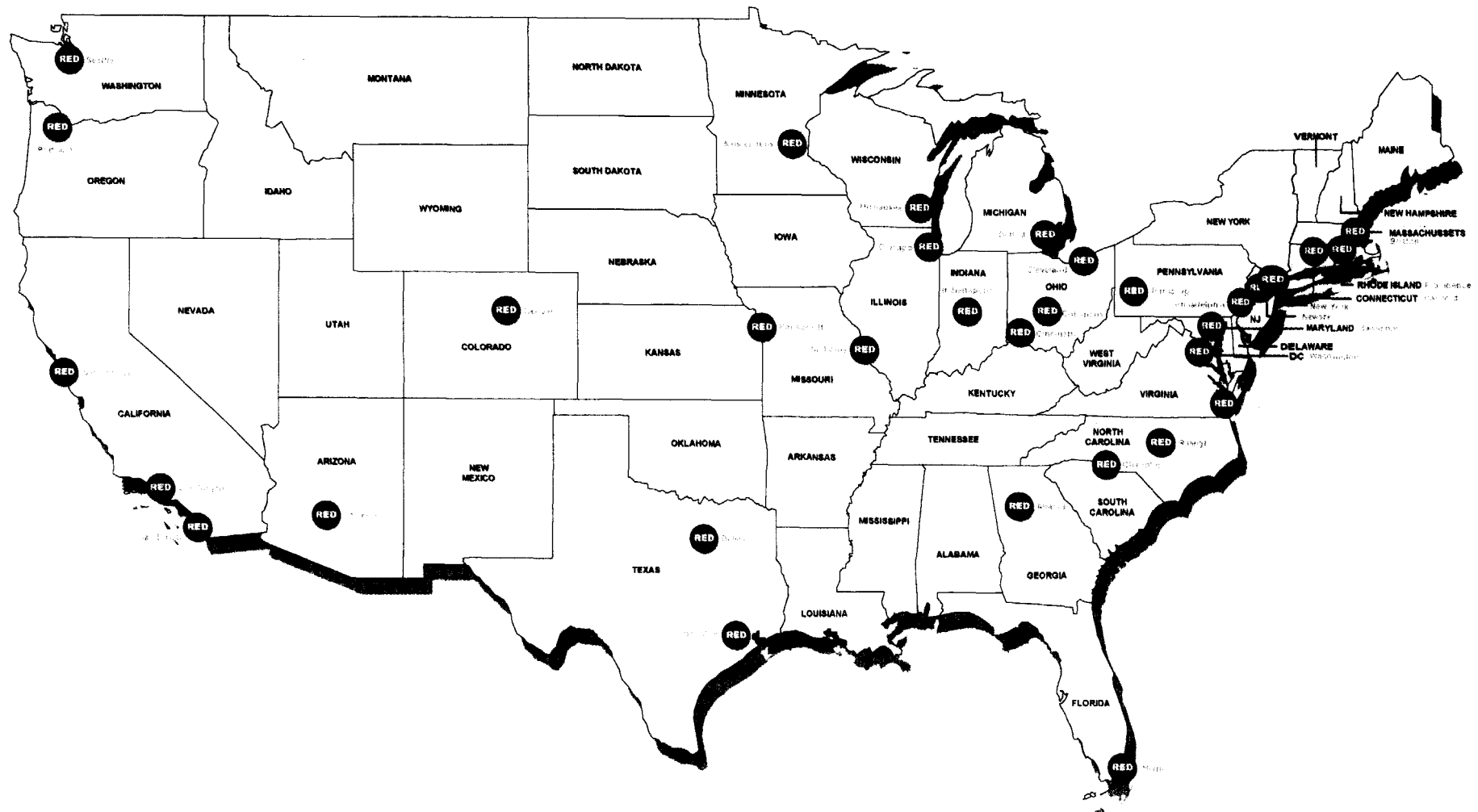
PRISM COMMUNICATION SERVICES, INC.

By:


Randall B. Lowe, Chief Legal Officer
Julie A. Kaminski, Deputy Chief Counsel
— Telecommunications

March 20, 2000

PRISM NETWORK ROLLOUT



CERTIFICATE OF SERVICE

I, Evelyn A. Opany, hereby certify that a correct copy of the Comments of Prism Communication Services, Inc. in response to the Commission's notice of Inquiry in CC Docket No. 98-146 was served via Courier to the following individuals, this 20th day of March 2000.

Honorable William E. Kennard
Chairman
Federal Communications Commission
445 12th Street, S.W.
Room 8-B201
Washington, DC 20554

Honorable Susan Ness
Commissioner
Federal Communications Commission
445 12th Street, S.W.
Room 8-B115
Washington, DC 20554

Honorable Gloria Tristiani
Commissioner
Federal Communications Commission
445 12th Street, S.W.
Room 8-C302
Washington, DC 20554

Honorable Michael K. Powell
Commissioner
Federal Communications Commission
445 12th Street, S.W.
Room 8-A204A
Washington, DC 20554

Honorable Harold Furchtgott-Roth
Commissioner
Federal Communications Commission
445 12th Street, S.W.
Room 8-A302
Washington, DC 20554

ITS, Inc.
1231 20th Street, NW
Washington, D.C. 20036

Ms. Michelle Carey
Deputy Chief
Policy and Program Planning Division
Federal Communications Commission
445 12th Street, S.W.
Room 5-C122
Washington, DC 20554

Ms. Linda Kinney
Assistant Bureau Chief-
Special Advisor for Advanced Services
Federal Communications Commission
445 12th Street, S.W.
Room 5-C041
Washington, DC 20554

Mr. Lawrence E. Strickling
Chief
Common Carrier Bureau
Federal Communications Commission
445 12th Street, S.W.
Room 5-C457
Washington, DC 20554

Mr. Kyle D. Dixon
Legal Advisor
Federal Communications Commission
445 12th Street, S.W.
Room 8-A204A
Washington, DC 20554

Ms. Janice M. Myles
Common Carrier Bureau
Federal Communications Commission
445 12th Street, S.W., TW-A352
Room 5-C327
Washington, DC 20554

Ms. Sarah Whitsell
Legal Advisor
Federal Communications Commission
445 12th Street, S.W.
Room 8-C302
Washington, DC 20554

Staci Pies
Common Carrier Bureau
Federal Communications Commission
445 12th Street, S.W.
Room 5-C360
Washington, DC 20554

Carole Lott
Legal Advisor
Federal Communications Commission
445 12th Street, S.W.
Room 8-B201
Washington, DC 20554

Mr. Paul Misener
Chief of Staff
Senior Legal Advisor
Federal Communications Commission
445 12th Street, S.W.
Room 8-A302
Washington, DC 20554

Mr. Kevin Martin
Legal Advisor
Federal Communications Commission
445 12th Street, S.W.
Room 8-A302
Washington, DC 20554

Mr. Jared Carlson
Legal Counsel to Bureau Chief
Common Carrier Bureau
Federal Communications Commission
445 12th Street, S.W.,
Room 5-C434
Washington, D.C. 20554

Mr. Robert Atkinson
Deputy Chief
Common Carrier Bureau
Federal Communications Commission
445 12th Street, S.W.,
Room 356
Washington, D.C. 20554

Mr. Jake E. Jennings
Special Advisor to Division Chief
Policy and Program Planning Division
Federal Communications Commission
445 12th Street, S.W.,
Room 5-C260
Washington, D.C. 20554

Ms. Dorothy Attwood
Legal Advisor
Federal Communications Commission
445 12th Street, S.W.,
Room 8-B201
Washington, DC 20554

Mr. Jordan Goldstein
Legal Advisor
Federal Communications Commission
445 12th Street, S.W.,
Room 8-B115
Washington, D.C. 20554

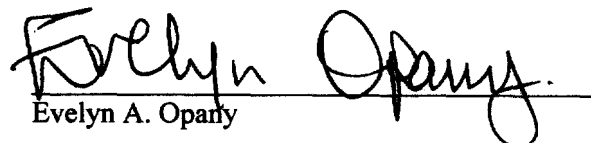
Mr. Donald Abelson
Chief, International Bureau
Federal Communications Commission
445 12th Street, S.W.
Room 6-C723
Washington, DC 20554

Steve Weingarten
Chief
Commercial Wireless Tecom Bureau
Federal Communications Commission
445 12th Street, S.W.,
Room 4-C224
Washington, DC 20554

Debbi Byrd
Accounting Safeguards Division
Common Carrier Bureau.
445 12th Street, S.W.,
Room 6-C316
Washington, DC 20554

John W. Berresford
Federal Communications Commission
445 12th Street, S.W.,
Room 6 A-165
Washington, DC 20554

Date: March 20, 2000


Evelyn A. Oparny